



TOWN OF GREENWICH

Town Hall, 101 Field Point Road, Greenwich CT 06830

Board of Ethics

Peter Tesei, 1st Selectman, Ex Officio Member
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Annual Report of the Board of Ethics

Fiscal Year 2010-2011

Pursuant to Section 2.12 (c) of the Greenwich Code of Ethics (the “Code”), the Board of Ethics is required to prepare and submit an annual report of its activities to the Board of Selectmen and the Representative Town Meeting. The Board is pleased to submit the following report for the fiscal year ending June 30, 2011.

Executive Summary

During the 2010-2011 Fiscal Year, Greenwich took several important steps to clarify the ethical standards applicable to Town employees and to improve the awareness and understanding of all Town Officers about ethical issues that may affect them. In January of this year the Board of Selectmen adopted a new Town-wide Ethics Policy. This was incorporated into the Town’s revised Human Resource Policy Manual that was released in March. Department heads met with all Town employees to review the new policy with them and help make sure that they understood its requirements.

The new Ethics Policy reaffirmed the Town’s commitment to ethical government and established Standards of Conduct that describe minimum behaviors for the organization. These clarify important requirements with respect to the use of confidential information, gifts, outside employment and inappropriate personal relationships, some of which are beyond the reach of the Code of Ethics. The new ethics policy also clarifies the responsibilities of Appointing Authorities and Town employees with regard to reporting instances of unethical behavior.

The Board appreciated having the opportunity to consult with the Department of Human Resources, the Department of Law and the Board of Selectmen so that the new policy could be implemented in a way that integrated it with the provisions of the Code of Ethics and avoids duplication and confusion. We believe the new policy will be an important resource for Town employees and will also assist the Board in fulfilling its responsibilities under the Code.

In tandem with the implementation of the new Ethics Policy, the Board redesigned and expanded the ethics materials available to Town Officers and members of the general public on the Town website. Enhancements to the information available on the Town web site included 1) posting the reports that the Board has compiled of its previous decisions and opinions, 2) revised and expanded FAQ's, links to allow professionals to access materials from their professional organizations and 3) the ability for Town Officers to access a list of Town payments for the Fiscal Year in order to assist them in filing their annual disclosure statements.

The Board benefited from the continuation of budgeted funds to support its operations in the amount of approximately \$2,000. Although we feel that increased funding for the activities of the Board would allow it to operate more effectively, we were pleased with the continuation of our funding level during a difficult budget period. The funds were used to support the Board's hotline system. In the coming Fiscal Year the Board will be working to publish the Reports of its prior decisions and opinions in book form, so that they can be provided to Town libraries, department heads and other interested parties.

We are pleased to report that there were no complaints concerning a violation of the Code filed with the Board of Ethics during the 2010-2011 Fiscal Year. We received one request for an advisory opinion, which was considered by the Board at its June 7th meeting. As of the close of the Fiscal Year, a formal opinion had not been issued in response to this request.

Town Officers filed fifteen financial disclosure forms covering the 2010-2011 Fiscal Year. This level is similar to the number of filings for the prior fiscal year. However, the Board was pleased to note that there has been a dramatic decline in non-compliant filings and a significant increase in filings by appointed officials. We also note that the updated FAQ's posted on the Town website have apparently removed some confusion about whether Town Officers are required to consider siblings as members of their immediate family.

In the future the Board plans to develop a worksheet to assist Town Officers in determining whether they have to file disclosure statements and what needs to be on them. We are also prepared to assist in ethics training sessions by meeting with groups of Town Officers to discuss the requirements of the Code of Ethics and respond to questions about how it applies.

After reviewing its operations during the 2010-2011 Fiscal Year, the Board has the following recommendations to the Selectmen: 1) consider technical amendments to the Code of Ethics to make the reporting system easier for Town officers to comply with 2) continue with training to ensure that the changes made by the new Town-wide Ethics Policy are fully understood by all Town employees, 3) explore ways to provide orientation for elected and appointed officials with respect to the ethical issues attendant upon their service to the Town and to provide them with continuing ethics training during their service.

Complaints of Violations of the Code

The Board received no complaints of violations of the Code during the 2010-2011 Fiscal Year. However, the Board did receive several inquiries about circumstances that might involve violations of the Code. The Board acknowledged the receipt of these communications and responded to those that were not anonymous, providing advice to the senders about the provisions of the Code and the procedures for the filing of a complaint. The Board also reviewed each of these submissions and, where a person submitting or affected by the information was known, advised them of the date, time and place of the meeting at which the review was being made.

The purpose of the review was to determine whether the submissions contained information that could serve as the basis for a complaint of a violation of the Code. For this purpose, the Board, without further investigation, assumed that all the allegations made in the submissions were credible. However, after carefully considering these allegations, the Board could not find a basis for believing that a violation of the Code may have occurred and thus determined that these submissions should not be treated as formal complaints.

As described elsewhere in this report, the Board has been active in efforts to increase awareness of both the requirements of the Code and the procedures for filing complaints. Due to the high level of cooperation and support that the Board has experienced in connection with these efforts, we are inclined to believe that the lack of complaints is indicative of a high level of ethical behavior in Town Government.

Requests for Advisory Opinions

We received one request for an advisory opinion during the 2010-2011 Fiscal Year, which was considered by the Board at its June 7th meeting. This request concerns the following issues under the Code of Ethics: 1) whether a property revaluation constitutes a Town action, 2) whether an attorney has a financial interest in a Town action when representing a client with respect to such action, and 3) what constitutes the use of a Town office to influence a Town action. As of the close of the Fiscal Year, a formal opinion had not been issued in response to this request. The Board expects to complete the opinion shortly, however.

In addition, members of the Board and the Board as a whole provided informal guidance to various Town Officers who requested such assistance.

Annual Disclosure Statements

Requirements of the Code. Section 2.9 of the Code requires Town Officers to file disclosure statements if they have a substantial financial interest in any transaction with the Town totaling \$100 or more. Where an officer has such an interest, the annual disclosure statement is required to:

- be filed within the 30 days following the end of the Fiscal Year

- be filed with the Town Clerk
- be filed on the form prescribed by the Board of Ethics
- be signed under oath
- disclose the position of the filer as a Town Officer
- state the nature of the interest
- state the total amount received from the transaction

The Code does not require that a reminder of these requirements be sent to all Town Officers. However, for many years it has been the practice to send a reminder, signed by the Chairman of the Board of Ethics, to all Town employees and to members of the RTM. This year the reminder alerted the recipients to certain issues that the Board has become familiar with from reviewing past filings and also made them aware of the additional information that is now available on the Town website. An effort was also made to send the reminder to the heads of various boards, commissions, agencies, consultants and some other elected officials who fall within the broad definition of Town Officer under the Code and to ask them to pass it on to the Town Officers that they work with. Judging from the increased number of disclosure forms completed by appointed officials, this effort appears to have been more successful this year than in the past.

Compliance. By not asking all Town Officers to file a report whether or not they have something to disclose, the Town avoids being buried by a blizzard of paper that contains no significant information. However, by using an exceptions reporting system, the Town cannot be sure that all Town Officers are aware of the requirements.

Since Town Officers are only required to file a statement when they have had an interest in a Town transaction, there is no way to know (without independently receiving specific information) whether the failure of a Town Officer to file a statement reflects a deliberate decision not to comply with the Code or is merely due to the absence of any substantial interest in a Town transaction on the part of the Town Officer.

As a result, a review of the statements that are filed does not permit the Board to judge the degree of compliance with the Town's financial disclosure policy with any degree of certainty. In addition, in an exceptions reporting environment, the requirement that annual disclosure statements must be notarized may serve as a disincentive for reporting, since Town Officers may not have accurate information available to them at the time that they are required to make the filing and may consider that they will be better off not filing a statement with respect to a small interest rather than take the risk that they will be held responsible for making an inaccurate statement under oath.

Review of Current Year Filings. The Board's review of the annual disclosure statements that were filed with the Town Clerk this year shows significant improvement in the awareness and understanding of the Code's requirements. Only one of the forms filed this year was not notarized, a reduction from three such filings in the prior year. The number of persons reporting interests in Town transactions increased significantly and the number of non-compliant filings has been reduced dramatically. In particular, it is noted that Town Officers may have received the impression in the past that they were not

required to report indirect interests of siblings. The information currently available in the FAQ's with respect to financial disclosures on the Town website clarifies this requirement and the Board is appreciative of the fact that reporting persons have noticed this clarification.

As in the past, a very low percentage of Town Officers reported interests in transactions with the Town during the 2010-2011 Fiscal Year, and those interests that were reported were for the most part insubstantial. Of the 15 persons filing with the Town Clerk, 6 were anomalous in that they contained no information concerning financial interests. Of the remaining 9, all were fully compliant with the Code, except one, which failed to provide certain required information. This is a significant improvement over prior years where up to half of the filings were non-compliant.

The following chart summarizes the results of a review of the disclosure forms filed for the 2009-2010 fiscal year as of August 5, 2011:

	RTM	Town Employee	Other	Total
Nothing to Declare				
Timely, Notarized	5			5
Not Notarized	1			<u>1</u>
				6
Something to Declare				
Timely, Notarized	4	1	3	8
Untimely, Notarized	0	0	1	<u>1</u>
Total				9

Although there were significant declines in the number of reporting persons during the last few years, that decline was principally related to a decrease in the number of apparently unnecessary filings, where the filer indicated that he or she had no interest to declare. This year saw no further decline in this type of filing, but did show an increase in the number of persons reporting an interest in one or more transactions. This increase in the number of reporting persons can be seen in part as the result of an improved understanding of the requirements of the Code, rather than a decrease in ethics compliance. By requiring financial disclosures, the Code assumes that Town Officers will have financial interests in Town transactions from time to time and that the best way to reassure the public that these interests do not influence Town decisions is to make full disclosure of them.

It should be noted that one of the persons who filed to disclose an interest did not disclose the actual amount involved in the transaction, but made a notation to the effect that he had "no knowledge" of the amount at issue. It is not readily apparent, however, why the individual could not have readily obtained the required information or made an

estimate of the amount. The Board notes that Code of Ethics requires an amount to be stated.

In the last few years, a far higher percentage of the forms filed have been in compliance with the requirements of the Code than in previous years. However, our review suggests that, despite efforts to improve the instructions provided with the form, additional training would be useful to ensure that all persons who file are aware of how to complete the required form. While we take satisfaction in the fact that reporting has improved, there is still work to be done.

As noted in our previous annual reports, the Board has been perplexed by the filing of statements that show nothing to declare. However, we have recently become aware that certain Town Officers may have been requested to fill out a disclosure form regardless of whether they have an interest to report in the belief that the Board has suggested that it would be efficacious. While the Board commends the efforts made by these individuals to reassure the public of the absence of any financial interest on their part in Town transactions, it cannot say that such filings are required by the Code nor can we find any indication that the Board has ever taken an official position to that effect.

This year, all of these reports were filed by members of the RTM. Due to the positions of the persons filing these reports, the Board must still consider whether such filings may be an expression of more than just excessive zeal. By filing forms that show nothing to declare these individuals may be suggesting that they feel that a system that requires mandatory annual filings should be implemented for all Town Officers. In the past, the Board has recommended against requiring all Town Officers to report due to the large number of uninformative reports that would likely be generated and the lack of resources to review all the filings and make a coherent report on the filings that do have interests to report.

Other Activities

The New Town-Wide Ethics Policy. In January of 2011 the Board of Selectmen adopted a new Town-wide Ethics Policy. This was incorporated into the Town's revised Human Resource Policy Manual that was released in March. Department heads met with all Town employees to review the new policy with them and help make sure that they understood its requirements.

The new Ethics Policy reaffirmed the Town's commitment to ethical government by enumerating general principles of conduct and specific expectations and values for people who serve the Town. The Policy established Standards of Conduct that describe minimum behaviors for the organization. These Standards of Conduct clarify important requirements with respect to the use of confidential information, gifts, outside employment and inappropriate personal relationships. The new ethics policy also clarifies the responsibility of Appointing Authorities and Town employees with regard to reporting instances of unethical behavior.

It was the objective of the Town in adopting the new policy to implement more detailed administrative guidelines, procedures and controls than are contained in the more

general prescriptions of the Code of Ethics, as well as to address certain ethical issues that are non-financial in nature. The Board believes that the development of more detailed administrative guidelines and procedures is a valuable step in the evolution of the Town's efforts to maintain a strong ethical culture in Greenwich government. We were pleased to hear that these changes have been implemented smoothly and have received support from many of the constituencies actively involved in Town government, including many of the Town's employees and elected and appointed officials, the League of Women Voters, members of the bar and the unions representing Town employees.

The Board appreciated having the opportunity to work collaboratively with the Department of Human Resources, the Department of Law and the Board of Selectmen to integrate the provisions of the new policy with the provisions of the Code of Ethics in a way that avoids duplication and confusion. We believe the new policy will not only be an important resource for Town Officers, but will also assist the Board in fulfilling its responsibilities under the Code of Ethics.

Coordination with Town Departments. During the 2010-2011 Fiscal Year, the Board appreciated having the opportunity to consult with and receive support from, the Office of the Selectmen, the Town Clerk, the Department of Law, the Department of Human Resources, the Department of Purchasing and Administrative Services, the Police Department and the Office of the Controller. The active involvement of people at all levels of Town government is essential for the proper functioning of the Board and is, of course, also largely responsible for the high degree of confidence that Greenwich's citizens have in ethical behavior by their Town government.

Website Redesign and Enhancement. In tandem with the implementation of the town's new Ethics Policy, the Board redesigned and expanded the information and materials available to Town Officers and members of the general public on the Town website. In doing so, the Board benefitted from the results of a survey it conducted during the 2009-2010 Fiscal Year. This survey of the Town's employees and appointed and elected officials allowed the Board to assess their awareness of the resources available to them regarding ethical issues and to determine the areas that they felt would be most helpful to have additional information about.

Enhancements to the information available on the Town web site included posting of the reports that the Board has compiled of its previous decisions and opinions. The reports are numbered by year and contain an index indicating the decisions and opinions that have dealt with particular issues arising under the Code as well as the decisions and opinions that have affected various departments, officials and agencies.

The enhancements also included revised and expanded FAQ's concerning the application of the Code, including specific FAQ's addressing the concerns of the general public, Town employees, elected officials, appointed officials and professionals. Links have been provided to allow professions to access the ethical materials made available by their professional organizations concerning ethical issues specific to the profession. In addition, in response to concerns by Town Officers that they could not readily obtain information about Town transactions when completing their annual disclosure forms, the

Board made arrangements with the Controller's office so that they could access a list of Town payments for the Fiscal Year on the Town website.

Budgetary Authorization. During the 2009-2010 Fiscal Year, the Board used funds allocated under the Town's budget to fund its Ethics Hotline. This communications system is independent of the Town's phone system and provides a toll free number with a virtual switchboard, where persons can leave messages on the hotline, be connected directly to the various members of the Board or leave messages in their individual voicemail boxes. The number is (888) 432-2777 and is posted on the Town Website.

The current amounts allocated to the Board do not allow the Board to implement all of its program goals. However, we understand the current constraints on the budget. In the future, the Board expects to reapply for funding to support its outreach and training efforts, as well as to provide funds for contingencies that may arise.

Plans and Recommendations

Continuing Initiatives. During the 2010-2011 Fiscal Year, the Board expects to continue to maintain its availability to serve as a resource for Town managers to discuss ethics issues and to provide information about the requirements of the Code as requested by Town Officers and the community at large. To further assist Town Officers in meeting their current disclosure responsibilities, the Board plans to develop a worksheet that Town Officers could complete for their own guidance before making the filing required under the Code or determining that a filing is not required. The availability of this resource would improve the chances that the requirements of the Code would be properly adhered to. The Board also is prepared to provide further training sessions to assist Town Officers in better understanding the who, why, what, where and when of the disclosure process as well as the ways in which the provisions of the Code affect them generally. In particular, we look forward to the completion of the current effort of the Department of Human Resources to prepare a revised Employee Handbook including additional ethics resources that Town employees will have easy access to.

Recommendations. Following a review of its activities and experiences in the 2010-2011 Fiscal Year, the Board wishes to make the following recommendations to the Board of Selectmen and the RTM:

1. Consider a Technical Amendment to the Code of Ethics. The reporting provisions of the Code of Ethics indicate that requiring disclosure of financial interest is an important Town policy. Implicit in this policy is the assumption that disclosure is a beneficial control process that can be used by the Town in its efforts to ensure compliance with the Code. The current system, however, can be difficult to comply with. Town Officers are required to keep track of all financial interests that they may have in Town transactions throughout each fiscal year and must report on them after the close of the fiscal year. This is understandably difficult to comply with since it can require record keeping and reporting on

transactions that are over a year old. The Board believes that a system of reporting that would require disclosure at the time that a Town Officer becomes aware that he or she has an interest in a Town transaction, rather than retroactively at year end, would be a more efficacious system for all concerned. Provided that provisions were made for efficient reporting of the relatively few multiple small transactions that occur under a single contract or arrangement, we believe that this real time system would be both easier for Town Officers to comply with and provide more timely and useful information to the public. As noted above, there are also questions as to whether the requirement that statements be filed under oath is efficacious. The Board believes that other less onerous mechanisms can be used to ensure that the reports that are filed are accurate. However, the Board is not in a position to implementing these changes by itself. Any change from an annual reporting system to the real time reporting system or decision to drop the requirement that statements must be filed under oath, would require a technical amendment to the Code of Ethics. The Board would be happy to assist the Selectmen and the RTM with the process of implementing a technical amendment to the Code for this purpose.

2. Continue Training Efforts with respect to the New Town Ethics Policy. It seems clear that the efforts made by the Department of Human Resources to distribute and educate Town employees with respect to the provisions of the new Ethics Policy have assisted in improving financial disclosures and an awareness of ethics requirements. A full appreciation of the requirements and procedures provided for in the new policy will take some time to achieve, however. The Board encourages the Department to continue its efforts to ensure that the changes made by the new Town-wide Ethics Policy are fully understood by all Town employees.
3. Make Further Enhancements to the Town's Orientation and Training Programs for Elected and Appointed Officials. The Board feels that additional training and orientation for elected and appointed officials would be useful in helping them to understand more fully the provisions of the Code that are applicable to them. The recent increase in disclosure filings by Appointed Officials may be seen as an indication of an increased level of awareness among them concerning the requirements of the Code. However, the Town's elected and appointed officials do not have the benefit of the training that is routinely provided to Town employees. There are considerable challenges involved in training elected and appointed officials, since many of them do not receive compensation for their service and have limited time available. These officials play an important role in Town government, however, and the public has an interest in making sure that they are aware of and understand the Town's

ethical requirements. We would be pleased to further explore ways to provide them with additional resources and training.

The Board invites comments from Town Officers or members of the general public on both its activities and plans and recommendations. Interested persons may request to address the Board at any of its public meetings or speak to any member of the Board personally by calling (888) 432 2777.

September 15, 2011